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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,609	06/23/2003	Joseph J. Bergmeister	59883-044	9601
37814	7590	05/31/2006	EXAMINER	
CHEVRON PHILLIPS CHEMICAL COMPANY 5700 GRANITE PARKWAY, SUITE 330 PLANO, TX 75024-6616				DANG, THUAN D
ART UNIT		PAPER NUMBER		

1764

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/600,609	BERGMEISTER ET AL.	
	Examiner	Art Unit	
	Thuan D. Dang	1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 March 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-17,19,20,22-27,29,30 and 32-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1, 2, 4-17, 19, 20, 22-27, 29, 30, 32-36 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/13/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 4-17, 19-20, 22-27, 29, 30, and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergmeister et al (WO 01/41923).

Bergmeister discloses a process substantially the same as the claimed process in which a catalyst containing palladium, silver (oxide or metal), potassium (less than 01 wt%), halide, namely potassium fluoride and a support such as alumina is used for selectively hydrogenating unsaturated hydrocarbons such as dienes and acetylenes in the presence of sulfur impurity (the abstract; page 3, line 23 thru page 5, line 22; page 7, lines 1-22; page 8, line 24; page 10, line 10, line 11-21; page 11, line 1; page 13, lines 4-13; page 15, line 24 thru page 17, line 25page 18, lines 26 thru page 19, line 4; especially table I, catalysts such as D).

Clearly, Bergmeister discloses a hydrogenation step very similar to the claimed process except that Bergmeister does not disclose the feed of the hydrogenation step is derived from a fractionation tower as called for in claim 1, namely depropanizer as called for in claims 20 and 30. However, as disclosed on page 2, lines 8-27, namely 18-19, Bergmeister discloses that sulfur impurities can be found in depropanizer.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the Bergmeister process by using the feed from the depropanizer for the selective hydrogenation to produce saturated hydrocarbons or olefins since the Bergmeister process can be operated in the presence of sulfur impurities.

Response to Arguments

Applicant's arguments filed 3/13/06 have been fully considered but they are not persuasive.

The argument that in the examples, as described on page 8, lines 10-15, applicants demonstrated that such catalysts provide advantageous and surprising results when used in the

presence of sulfurs is not persuasive since (1) data are not consistent and/or incorrect . For example, in example 1, catalyst C (invention) has molar ratio of potassium to fluoride is 4.1/1, in table 1, the molar ratio of F:K (or K:F) of catalyst C is 1. (2) the claimed process are not the processes shown in examples (see table I and examples). Note that it has been established that evidence of unobviousness must be commensurate in scope with the claims. *In re Kulling* 14 USPQ 2d 1056, 1058 (Fed. Cir. 1990); *In re Clemans* 206 USPQ 389 (CCPA 1980); *In re Dill* 202 USPQ 805, 808 (CCPA 1979); *In re Greenfield* 197 USPQ 227 (CCPA 1978); *In re Lindner* 173 USPQ 356, 358 (CCPA 1972); *In re Hyson* 172 USPQ 399 (CCPA 1972); *In re Tiffin* 171 USPQ 294 (CCPA 1971); *In re McLaughlin* 170 USPQ 209 (CCPA 1971); *In re Kennedy* 168 USPQ 587 (CCPA 1971); *In re Law* 133 USPQ 653 (CCPA 1962).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuan D. Dang whose telephone number is 571-272-1445. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Calderola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thuan D. Dang
Primary Examiner
Art Unit 1764

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A handwritten signature in black ink, appearing to read "Thuan D. Dang".